

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PAIUTE PIPELINE COMPANY, a Nevada corporation,

Plaintiff,

vs.

358.95 ACRES OF LAND, MORE OR LESS, LOCATED IN DOUGLAS COUNTY, NEVADA; HEAVENLY VALLEY LIMITED PARTNERSHIP, a Nevada Limited Partnership; PLACERVILLE LUMBER COMPANY; DOUGLAS COUNTY SEWER IMPROVEMENT DISTRICT NO. 1, a municipal corporation; CLOVER VALLEY LUMBER COMPANY; TAHOE VILLAGE OWNERS' ASSOCIATION; THE RIDGE TAHOE PROPERTY OWNERS ASSOCIATION; HARICH TAHOE; TAHOE VILLAGE, INC.; HARICH TAHOE DEVELOPMENTS; LAKE TAHOE LAND COMPANY INC., a Nevada corporation; WILLIAM COLE, a married man; SIERRA PACIFIC POWER COMPANY, a Nevada Corporation; CALIFORNIA INTERSTATE TELEPHONE COMPANY, a corporation; CONTINENTAL TELEPHONE COMPANY OF CALIFORNIA, D/B/A/ CONTINENTAL TELEPHONE COMPANY OF NEVADA, a California corporation; FRED TOTAH AND LISA KRISTIN FARMER, husband and wife as joint tenants, and NANCY GRACE KHOURY-SALAMEH AND ROY K. SALAMEH, TRUSTEE, NANCY GRACE KHOURY-SALAMEH, TRUSTEE OF THE SALAMEH FAMILY TRUST DATED MARCH 24, 2003, all as Tenants in Common; STEWART TITLE OF NEVADA HOLDINGS, INC., a Nevada corporation; NANUK REAL ESTATE CONSULTING INC., a Nevada corporation; JACK K. SIEVERS AND DENISE SIEVERS, husband and wife as joint tenants; CENTURY 21, TAHOE PINES REALTY; and UNKNOWN OWNERS,

Defendants.

CASE NO:
3:10-cv-00661-LRH-RAM

PARCEL NOS:

APN 1319-19-802-003
APN 1319-00-002-026
APN 1319-19-702-001
APN 1319-19-802-006
APN 1319-19-802-001

**ORDER ON PLAINTIFF
PAIUTE PIPELINE
COMPANY'S MOTION
FOR SUMMARY
JUDGMENT REGARDING
CONFIRMATION OF
CONDEMNATION
AUTHORITY AND
MOTION FOR
IMMEDIATE
POSSESSION OF
PROPERTY INTERESTS,
OR IN THE
ALTERNATIVE, MOTION
FOR IMMEDIATE
OCCUPANCY PURSUANT
TO NRS 37.100**

ORDER ON PLAINTIFF PAIUTE PIPELINE COMPANY'S MOTION FOR SUMMARY JUDGMENT REGARDING CONFIRMATION OF CONDEMNATION AUTHORITY AND MOTION FOR IMMEDIATE POSSESSION OF PROPERTY INTERESTS, OR IN THE ALTERNATIVE, MOTION FOR IMMEDIATE OCCUPANCY PURSUANT TO NRS 37.100

This matter came before this Court pursuant the filing of Plaintiff Paiute Pipeline Company's ("Paiute") Motion for Summary Judgment Regarding Confirmation of Condemnation Authority and Motion for Immediate Possession of Property Interests, or in the alternative, Motion for Immediate Occupancy Pursuant to NRS 37.100 ("Motion").

Defendant William Cole ("Cole") does not oppose Paiute's Motion and stipulated to Paiute's occupancy of his property. That Stipulation is an order of the Court (Document #86). Paiute and Defendant Heavenly Valley Limited Partnership ("Heavenly") executed a Stipulation for settlement, which became an order of the Court (Document # 97). None of the other Defendants filed an opposition to Paiute's Motion.

THE COURT, HAVING REVIEWED PAIUTE'S MOTION, HEREBY FINDS THE UNDISPUTED FACTS TO BE:

1. On October 22, 2010, Paiute commenced this action, pursuant to Rule 71.1 of the Federal Rules of Civil Procedure and the Natural Gas Act, 15 U.S.C. § 717f, to acquire by eminent domain a perpetual easement, and in some cases temporary easements, on a portion of five properties located in Douglas County, Nevada for the purpose of constructing the Paiute 2010 Expansion Project ("Project"). The properties are more accurately described as Douglas County Assessor Parcel Numbers 1319-19-802-003, 1319-00-002-026, 1319-19-702-001, 1319-19-802-006, and 1319-19-802-001, and depicted on Exhibit B to Paiute's Motion. The Project was approved by the Federal Energy Regulatory Commission ("FERC") on August 23, 2010.

2. Defendant Heavenly is the fee owner of APNs 1319-19-802-003, 1319-00-002-026, and 1319-19-702-001. Defendant Cole is fee owner of APN 1319-19-802-006. Defendants Fred Totah and Lisa Kristin Farmer, husband and wife as joint tenants, and Nancy Grace Khoury-Salameh and Roy K. Salameh, Trustees of the Salameh Family Trust Dated March 24, 2003, all as tenants-in-common ("Totah/ Salameh"), are fee owners of APN 1319-19-802-001. All other Defendants were named pursuant to FRCP 71.1(c)(3) as persons or entities who may claim an interest in the properties and

1 whose names were identified in the litigation guarantees obtained by Paiute prior to commencing the
2 present action.

3 3. Defendant Douglas County Sewer Improvement District No. 1 ("DCSID") filed an
4 Answer to Paiute's complaint, asserting that it has an existing easement which "parallels and overlaps"
5 Paiute's proposed easement. On April 5, 2011 Defendant DCSID and Paiute submitted a Stipulation
6 and Order to the Court whereby DCSID disclaimed its interest in the proceedings (Document #109).

7 All other Defendants have either failed to appear after being properly served, disclaimed their
8 interest in the proceeding, or have no objection or defense to the taking and filed a notice of appearance
9 pursuant to FRCP 71.1(e)(1).

10 4. Paiute's Motion, filed on October 28, 2010, seeks confirmation of its authority to
11 condemn the property interests needed for construction of its pipeline and to take immediate possession
12 of the land for that purpose. Immediate occupancy not later than May 1, 2011 is necessary as Paiute
13 must complete the construction by August 23, 2011 in order to comply with the Certificate of Public
14 Convenience and Necessity issued by the FERC.

15 5. Paiute served its Motion by having a process server personally deliver a copy to each
16 named Defendant in this action.

17 6. On February 15, 2011 Defendant Heavenly and Paiute entered into a Stipulation for
18 settlement, deposit of money, entry of judgment and entry of final order of condemnation. The Order
19 was entered on February 18, 2011 (Document # 97). Pursuant to the terms of the Stipulation, on March
20 1, 2011 Paiute deposited \$15,000.00 with the Clerk of Court. Judgment was entered on March 15,
21 2011 in favor of Paiute. That same day, a Final Order of Condemnation was submitted to the Court.

22 7. On December 27, 2010 Defendant Cole and Paiute entered into a Stipulation permitting
23 Paiute's occupancy of his property and nonopposition to Paiute's Motion. Order was entered on
24 January 18, 2011 (Document #86). Pursuant to the terms of the Stipulation, on January 31, 2011 Paiute
25 deposited \$8,200.00 with the Clerk of Court.

26 8. Defendants Totah/ Salameh were duly served with process on November 4, 2010 and
27 have failed to appear in this matter. Consequently, on March 4, 2011 default was entered against them.

1 The appraised value of the easement acquired on the Totah Salameh property is \$8,400.00. Exhibit A-2
2 to Paiute's Motion.

3 THE DEFENDANTS HAVING FILED NO OPPOSITION, AND GOOD CAUSE APPEARING, THE COURT
4 HEREBY GRANTS PAIUTE'S MOTION TO CONFIRM ITS AUTHORITY TO CONDEMN AND TAKE IMMEDIATE
5 POSSESSION OF THE PARCELS PURSUANT TO THE FOLLOWING TERMS:

6 1. Paiute may occupy Defendant Heavenly's property pursuant to the terms of the
7 Stipulation and Order for settlement executed between the parties.

8 2. Paiute may occupy Defendant Cole's property pursuant to the terms of the Stipulation
9 and Order for occupancy executed between the parties.

10 3. Paiute may occupy Defendant Totah/ Salameh's property, namely, a 20,113 square foot
11 easement for natural gas utility purposes on a portion of a 3.25 acre parcel, APN 1319-19-802-001, said
12 right of occupancy to commence the day Plaintiff deposits with the Clerk of Court \$8,400.00, which is
13 the amount of Paiute's appraisal for the easement rights sought. The easement is more accurately
14 described in Exhibit 1.

15
16 **IT IS SO ORDERED** this 14th day of April, 2011

17
18
19
20
21
22
23
24
25
26
27
28



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE